

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

No. 6:21-cv-00217

**David Lee Tijerina,**  
*Plaintiff,*

v.

**Gregory Dingas et al.,**  
*Defendants.*

**ORDER**

Plaintiff David Lee Tijerina, proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983 and sought leave to proceed in forma pauperis. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636(b). Doc. 3.

On June 15, 2021, the magistrate judge issued a report recommending that the complaint be dismissed without prejudice as barred by 28 U.S.C. § 1915(g) unless the plaintiff paid the filing fee within fifteen days. Doc. 4. Plaintiff subsequently filed a letter and affidavit, which the court deems to constitute written objections. Doc. 5.

The court reviews the objected-to portions of a magistrate judge's report and recommendation de novo. *See* Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1). The magistrate judge recommended dismissal because plaintiff did not pay the filing fee and is barred by 28 U.S.C. § 1915(g) from proceeding in forma pauperis. Doc. 4. Plaintiff's objection does not refute that basis for dismissal (Doc. 5), and he has not paid the fee required by 28 U.S.C. § 1914(a) to file a civil action in this court.

Having reviewed the magistrate judge's report de novo, and being satisfied that it contains no error, the court overrules plaintiff's objections and accepts the report's findings and recommendation. This case is dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).

*So ordered by the court on July 14, 2021.*

A handwritten signature in black ink, appearing to read "J. Campbell Barker", written over a horizontal line.

J. CAMPBELL BARKER  
United States District Judge